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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,585	08/05/2003	Randal T. Beste	1391-43700	6997
46133	7590	10/28/2005	EXAMINER	
CONLEY ROSE, P.C. PO BOX 3267 HOUSTON, TX 77253-3267			LEDYNH, BOT L	
			ART UNIT	PAPER NUMBER
			2862	

DATE MAILED: 10/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

ELC

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/634,585	BESTE ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Bot LeDynch	2862	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,3,6,9-26 and 29-41 is/are pending in the application.
- 4a) Of the above claim(s) 1,3,6 and 9 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12,13,15,16,22,23,25 and 26 is/are allowed.
- 6) ☒ Claim(s) 10-11, 14, 17-21 and 24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.



Bot LeDynch  
Primary Examiner

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **DETAILED ACTION**

Applicant's election with traverse of group II, claims 10-26, in the reply filed on August 26, 2005 is acknowledged. The traversal is on the ground(s) that there is no serious burden on the part of the Examiner. This is not found persuasive because in the construction and examination of patent claims, one different limitation may impart serious burden on the part of the examiner, not to mention that the claims of the two groups in the current application are patentably distinct and there are many different limitations which are recited in the claims of the two groups (see the restriction requirement dated 7/29/05). Although both groups have been examined in a previous Office action, the claimed invention may be restricted anytime at the Examiner's discretion as long as the claimed inventions are patentably distinct and the examination of both groups would impose burden on the part of the Examiner (see Office action dated 7/29/05).

The requirement is still deemed proper and is therefore made FINAL.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-11, 14, 17-21, and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thompson et al (6646441) in view of Nichols (6294917). Thompson

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et al discloses substantially the same invention as claimed (see Office Action dated 3/22/05), except for an antenna tuning circuit comprising a relay having a coil coupled to a signal line that that carries signals to the transmitting antenna, wherein the antenna tuning circuit is selectively tunable to obtain a plurality of resonant frequencies. Nichols discloses that relays having a coil coupled to a signal line that that carries signals to the transmitting antenna are used to switch capacitors and inductors in and out in order to selectively tune the frequencies (see col. 7, lines 20-50). It would have been obvious to one of skill in the art to modified Thompson et al by employing relays having a coil coupled to a signal line that carries signals to the transmitting antenna to switch capacitors and inductors in and out in order to selectively tune the frequencies (by controlling inductance and capacitance) as taught by Nichols (see col. 7, lines 20-50). Although specific columns, figures, reference numerals, lines of the reference(s), etc. have been referred to, Applicant should consider the entire applied prior art reference(s).

***Allowable Subject Matter***

Claim 12-13, 15-16, 22-23, and 25-26 are allowed.

***Response to Amendment***

Applicant's arguments filed May 15, 2005 have been fully considered but they are not persuasive. Applicant argues that Thompson does not teach "an antenna tuning circuit comprising a relay having a coil coupled to a signal line that that carries signals to

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the transmitting antenna, wherein the antenna tuning circuit is selectively tunable to obtain a plurality of resonant frequencies." This argument is deemed moot in view of the above 103 rejection.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Bot LeDinh whose telephone number is 5712722231. The examiner can normally be reached on Maxiflex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 5712722180. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'Bot LeDinh', written in a cursive style.

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Bot LeDinh, J.D., Ph.D., D.A.  
Primary Examiner